

**DEPARTMENT OF TRANSPORTATION**

DIVISION OF LOCAL ASSISTANCE – M.S. 1

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*Flex your power!  
Be energy efficient!*

August 19, 2009

To: Metropolitan Planning Organizations  
Regional Transportation Planning Agencies  
Local Transportation Commissions

Dear Executive Directors:

This correspondence is to transmit to you the attached California Department of Transportation's (Department) Division of Local Assistance (DLA) Guidelines and Timelines relating to the American Recovery and Reinvestment Act of 2009 (Recovery Act). These documents represent a consensus of the Recovery Act guidance workgroup (Workgroup) and incorporate suggestions received from the Regional Transportation Planning Agencies (RTPA).

At the April 15, 2009, RTPA meeting, Guidelines were introduced and were open for comments from RTPAs through May 1, 2009. Following the April 15, 2009, RTPA meeting, Recovery Act Timelines were developed and the Workgroup was created from existing DLA Rescission group and additional members. The Workgroup includes members from the RTPAs (currently 20 members), DLA, the Department's Division of Programming and Division of Budgets. A phone conference was held with the workgroup on June 18, 2009, to discuss the Guidelines and the Timelines. A consensus was reached by the workgroup during the phone conference and final draft Guidelines and Timelines were presented to the RTPAs at the July 8, 2009, RTPA meeting.

If you have any questions please call Laura Quintana at (916) 653-7200 or John Flores at (916) 654-4032.

Sincerely,

A handwritten signature in black ink, appearing to read "Denix D. Anbiah".

DENIX D. ANBIAH

Chief

Division of Local Assistance

Enclosure

c: District Division Chiefs for Local Assistance  
District Local Assistance Engineers  
Division of Local Assistance Area Engineers  
Division of Local Assistance Office Chiefs



**DIVISION OF LOCAL ASSISTANCE**  
**Guidelines and Timelines for Managing Local Assistance**  
**American Recovery and Reinvestment Act (Recovery Act) Funding**  
**August 12, 2009**

**BACKGROUND**

On February 17, 2009, President Obama signed The American Recovery and Reinvestment Act of 2009 (Recovery Act). Among its many provisions, Recovery Act provides California approximately \$2.57 billion in federal apportionments for its Highway Infrastructure Investment Program.

Recovery Act specifies a sub-allocation of 30 percent of these funds to the regional planning agencies (Regions) through the Surface Transportation Program (STP) process which is “based on population”, and does not require sub-allocation of the remaining 70 percent (“any area” funds) designated to the State. The State had 120 days from the date of apportionment by Federal Highway Administration (FHWA) to obligate half of the “any area” funds. Any funds not obligated within the first 120 days were to be redistributed to states that were able to meet the deadline. California had approximately \$900 million subject to the federal 120-day requirement that was required to be obligated by June 30, 2009.

On March 27, 2009, Governor Schwarzenegger signed Assembly Bill (AB) x3 20. This new law established the distribution formula of federal economic stimulus funds, 62.5 percent to the Regions and 37.5 percent to the State. This additional influx of “any area” funding to the Regions was subject to the federal 120-day deadline of June 30, 2009. On April 3, 2009, the California Department of Transportation’s (Department) Division of Transportation Programming released final Recovery Act fund apportionment levels for the Regions. This includes Recovery Act funds sub-allocated “based on population” and the additional “any area” funds.

**Description of Recovery Act Apportionments:**

The specific Recovery Act fund types that may be received by the Regions are:

**“Based on Population”**

- C200 – Areas with Population equal to or less than 200,000
- C230 – Urbanized Areas over 200,000 Population
- C250 – Rural Areas with Population under 5,000

**“Any Area”**

- C220 – Transportation Enhancements
- C240 – Available for Use in Any Area (flexible)

The federal reimbursement rate for projects using Recovery Act funds can be up to 100 percent, at the discretion of the Regions receiving the funding.

## **DEADLINES**

The following dates apply to the Regions based on the specific Recovery Act Highway Infrastructure Investment fund types:

- **June 30, 2009** – Marks 120 days from March 2, 2009, the apportionment date of the Recovery Act funding by FHWA. A minimum and aggregate total of 50 percent of apportionments in “any area” must be obligated by the Regions and the State by this date.
  - **California met this requirement by May 2009.**
  - Following the June 30, 2009, deadline, there were no Recovery Act funds redistributed from the other states to California.
- **March 2, 2010** – All remaining funding in Recovery Act apportionments “based on population” and the “any area” funds must be obligated by the Regions and the State.
  - **Recovery Act funds not obligated by this deadline will be lost by that state and redistributed to other states that are able to obligate all of their Recovery Act funds.**
- **September 30, 2010** – Recovery Act funds not obligated by this date will lapse.
  - **Recovery Act funds can not be obligated after September 30, 2010.**
  - This date applies to Recovery Act funds that are redistributed, as well as Recovery Act funds deobligated from projects.
- **September 30, 2015** – Final Recovery Act fund deadline.
  - **Recovery Act funds not expended by this time will expire.**

## **RESPONSIBILITIES**

### Department:

1. Distribution of Recovery Act apportionments to the Regions.
2. Oversee and monitor the use of local Recovery Act funds. The Department will provide online delivery and monthly activity reports for District Local Assistance Engineers (DLAE) and the Regions.
3. Work closely with Regions and Local Agencies in the obligation of their Recovery Act funds.

### Regions (MPOs/RTPAs):

1. Ensure that projects using Recovery Act funds are programmed in the FTIP – including back-up projects and/or projects that may use redistributed Recovery Act funds, if any.
2. Ensure that any Recovery Act funding programmed is obligated in accordance with the deadlines of Recovery Act.
3. To expedite obligation of Recovery Act funds, Regions may consider swapping the recovery funds on projects that are already programmed in the FTIP through FTIP administrative modifications. Projects programmed in any of the four years of the FTIP may be advanced for delivery using Recovery Act funds.

#### Local Agencies:

1. Submit any requests for authorization (RFA) for projects using Recovery Act funds in a timely manner and in accordance with the local assistance procedures manual (LAPM).
2. Ensure that all Federal and State requirements as set forth in the LAPM are being adhered to when submitting an RFA. *[This includes, but is not limited, to the new federal Disadvantaged Business Enterprise (DBE) requirements.]*

#### **GUIDELINES**

These guidelines will be implemented effective March 2, 2009.

#### Obligating Recovery Act Funding:

1. As of May 2009, the Department and Regions collectively obligated more than the required \$900 million of the “any area” Recovery Act funds, approximately 60 days prior to the June 30, 2009 deadline.
2. The remaining Recovery Act funding will need to be obligated by March 2, 2010.
3. Each Region is strongly encouraged to obligate their share of Recovery Act funding as expeditiously as possible.
4. Any Region that will be unable to use their share of Recovery Act funding received in a timely manner may transfer their share to another Region. In such case, the Department’s Division of Local Assistance (DLA) Headquarters will need to receive a letter, co-signed by both Regions, agreeing to transfer of Recovery Act funds. It will be the responsibility of the donating and receiving agencies of the transfer, to adjust the programming amounts appropriately in the FTIP; the donating agency will have a decrease in programming capacity and the receiving agency will have an increase in programming capacity. Any replacement funding, as a result of this transfer of Recovery Act funding, will be outside the scope of oversight and responsibility of the Department as it relates to the Recovery Act funds.
5. ABx3 20 requires that Regions report to the Department for any Recovery Act funds that will not be obligated within the one year deadline.
6. ABx3 20 also authorizes the Department to redistribute the funds to other projects to ensure that California will continue to compete for additional funds through federal redistribution of Recovery Act funds.
7. The least flexible Recovery Act funds within each Region should be obligated first (such as C230 and C250). The most flexible Recovery Act funds (C240) should be obligated last. Therefore, if a Region is not able to use 100 percent of their Recovery Act funds, by any of the applicable deadlines, then the necessary redistribution of funds will be of the most flexible Recovery Act funds.
8. In order to avoid lost Recovery Act funds from later project savings, it is recommended that Regions use mixed federal funding for the projects that are using Recovery Act funds. Therefore, any cost savings can be applied to the non-Recovery Act funding, so as to keep the Recovery Act fund usage at 100 percent (particularly after the September 30, 2010 deadline).

## **TIMELINES**

### **June 30, 2009**

- The 120<sup>th</sup> day from the receipt of the Recovery Act apportionments from FHWA. At this mark, a minimum of 50% of “any area” apportionments to states must be obligated or lost.
  - ▶ Goal achieved by California as of May 4, 2009.
  - ▶ Following the June 30, 2009, deadline, there were no Recovery Act funds redistributed from the other states to California.

### **November 1, 2009**

- Regions **MUST** submit to the Department’s DLA Headquarters a report, with the amount of Recovery Act funds they plan to obligate.
  - Report shall include a list of Recovery Act funded projects that will be obligated by January 1, 2010, and specify **ANY** Recovery Act funds that **will not** be obligated by January 1, 2010.
  - Report should include a list of back-up Recovery Act funded projects that could be obligated if other projects are not ready or if any redistributed Recovery Act funds become available. Back-up projects will need to be obligated by January 1, 2010, as well and therefore must be programmed in the FTIP. To maintain financial constraints of the FSTIP, the back-up projects may initially be programmed using other funds and reconciliation can be done through an FTIP administrative modification. Regions and Local Agencies need to work with their DLAEs and the Department’s Division of Transportation Programming, as necessary, to ensure appropriate programming and use of the Recovery Act funds within the specified timelines.
  - The Department will provide a sample format of this report to the Regions.

### **December 1, 2009**

- Local Agencies **MUST** submit “Draft” RFA to DLAEs.

### **December 15, 2009**

- Local Agencies **MUST** submit “Final” project RFAs funded with Recovery Act funds to DLAEs.
- After this date, the Department will not deobligate any funds until after March 2, 2010.

### **December 31, 2009**

- Districts **MUST** submit RFAs for DLA Recovery Act funded projects to DLA Headquarters.

### **January 1, 2010**

- The Department’s DLA will redistribute any local Recovery Act funds that will not be used by Regions based on the “Final” RFAs.
- Recovery Act funds will be distributed to:
  - Regions that will obligate 100 percent of their Recovery Act funds including the “Final” RFAs.

- Regions that have back-up projects identified and programmed in the FTIPs (see November 1, 2009, of these timelines).
- The redistribution will:
  - Be based on the ratio of the obligated funds of the eligible Region to the total obligated amount of all eligible Regions, depending on the amount of available funds to redistribute, if sufficient.
  - Ensure that DLA will use these funds on Local Assistance funded projects and continue to compete for and receive Recovery Act funds during the federal redistribution of Recovery Act funds.

#### **January 2010**

- The Department's DLA Headquarters submits all timely and complete electronic RFAs (E76s) to FHWA; this includes RFAs for all redistributed funds, if any.

#### **February 1, 2010**

- The Department's DLA notifies the Department's Federal Resources Office of any Recovery Act funds that will not be obligated by DLA.

#### **March 2, 2010 - One year date from March 2, 2009.**

- On this date, **all** remaining Recovery Act fund apportionments to the states must be obligated or lost to other states.
- Obligation as used in these timelines is the date of FHWA approval.

#### **March 2010**

- FHWA Redistribution --FHWA Redistribution of Recovery Act funds from states that did not meet the March 2, 2010, obligation deadline.

#### **If additional Recovery Act funds are received from FHWA:**

- Recovery Act funds will be split between the Regions and State per the same ratio in ABx3 20.
- Recovery Act funds will be distributed to:
  - Regions that obligated 100 percent of their Recovery Act funds by the March 2, 2010, deadline.
  - The redistribution will be based on the ratio of the obligated funds of the eligible Region to the total obligated amount of all eligible Regions on March 2, 2010.
- The Department's Division of Transportation Programming will update Distribution Sheets, if necessary.

#### **July 1, 2010**

- Local agencies **MUST** submit RFAs for Recovery Act funded projects to their DLAEs.
- Regions **MUST** submit to the Department's DLA Headquarters a report with the amount of any Recovery Act apportionments that they intend to obligate.
  - This report shall include a list of Recovery Act funded projects that will be obligated by August 1, 2010, and specify **ANY** Recovery Act funds that will not be obligated by August 1, 2010.

- This report shall include a list of back-up Recovery Act funded projects that may be obligated if other projects are not ready for obligation or if any redistributed Recovery Act funds become available. Back-up projects will need to be obligated by August 1, 2010, as well and therefore must be programmed in the FTIP.

**July 31, 2010**

- Districts **MUST** submit RFAs for DLA Recovery Act funded projects to DLA Headquarters.

**August 2010**

- The Department's DLA Headquarters submits all timely and complete electronic RFAs (E76s) to FHWA.

**September 1, 2010**

- The Department's DLA notifies the Department's Federal Resources Office of any Recovery Act funds that will not be obligated by DLA.

**September 30, 2010** --Any Recovery Act funds not obligated will lapse.

- Any Recovery Act funds deobligated after this date will not be available for future obligation. Recovery Act funds can not be obligated after September 30, 2010.

**September 30, 2015** --Unexpended Recovery Funds will expire.